

1 Q And so that's true even for law enforcement
2 officers investigating a potential crime?

3 A Yes.

4 Q Okay. All right. So on Thursday -- or on
5 Tuesday, December 11th, you did end up meeting with
6 Commissioner Rhoades, Mike Harrell and Megan Simpson --

7 A Yes.

8 Q -- true?

9 A Yes, sir, I did.

10 Q Okay. Do you recall where that meeting took
11 place?

12 A Yes, sir. My administrative assistant, Jane
13 Atkinson, sometime right around 9:00 -- I don't remember
14 if they were a little bit late or not, but sometime
15 right around 9:00, advised me that -- that Commissioner
16 Rhoades was -- was here, and I asked her to put a -- put
17 him in the war room. That's a -- it's a -- basically, a
18 small conference room in our office where we do a lot of
19 trial prep and things like that, but it's also used as a
20 small conference room when I have law enforcement come
21 to me and bring me cases and things like that. Not
22 uncommon.

23 If you were to come visit with me, I'd -- I'd
24 put you in the war room and we'd have a conversation. I
25 normally don't bring people directly into my office

1 because I have -- it's too messy, No. 1, but I have a
2 lot of sensitive information and files all around me.

3 So we met in the war room. And I asked Jane
4 Atkinson to -- to go get Commissioner Rhoades, put him
5 in the war room. And I walked on in and I saw Chief
6 Harrell sitting directly across the table from
7 Commissioner Rhoades and then a -- a lady that I did not
8 know, sitting to Commissioner Rhoades' right, ends up
9 being Megan Simpson.

10 Q Okay. And who did you learn that Megan
11 Simpson was?

12 A I believe she was general counsel, DPS, at
13 that time.

14 Q All right. Would you describe for the Court
15 and jury the substance of that meeting, in terms of what
16 Commissioner Rhoades and the others said to you and what
17 you said to them?

18 A Sure. After a little bit of small talk and --
19 and, again, Commissioner Rhoades introduced me to
20 Ms. Simpson, who I did not recall -- had not recalled
21 meeting to that point. We had some small talk with
22 Chief Harrell and -- and just general, "How are you all
23 doing, everything been good, it's been a long time since
24 I've seen you," type of deal.

25 And I said, "Well, obviously, there's

1 So I said -- I said, "Blackmail you? You
2 know, how in the heck do you blackmail the Commissioner
3 of Public Safety?" And -- and he says, "Well, we
4 believe that -- that -- that Troy is -- he's upset about
5 some things, he didn't like the way some things have
6 gone on, and that he now has some -- is alleging he has
7 some damaging information against me and the Highway
8 Patrol that he is threatening to go public with unless I
9 do certain things."

10 Q Did you come to learn what the damaging
11 information was?

12 A No, not really. I mean -- and, again, this --
13 this went on for a little while. I said -- I said,
14 "Listen, how did this go down? What are you -- you
15 know, did this happen in your office or what?"

16 And so he said, "Well" -- he said, "I got a
17 call from Troy" -- and, excuse me, I'll -- "Mr. German."
18 And I can't remember exactly how Commissioner Rhoades --
19 whether he said "Troy" or "Mr. German." I'll just say
20 "Mr. German" from now on, so I'll be appropriate.

21 He said he received a call from Mr. German
22 requesting a meeting and that they had a meeting and, in
23 that meeting, there were certain demands that were made
24 by Mr. German to Commissioner Rhoades that -- that, if
25 met, it didn't seem like there was going to be a

1 wants to meet with you, and you meet with him off site
2 at a restaurant or the -- or the coffee shop" --
3 whichever it was he told me -- "you don't take anyone
4 with you." I said, "You've got general counsel sitting
5 down at the end of the table, I'm sure she was available
6 and possibly Chief Harrell, and -- and -- and you don't
7 even record the meeting?"

8 "No."

9 I said, "Okay, well, then, what did -- what
10 did Mr. German do?"

11 "Well, he made certain requests of me to do
12 certain things and then he put his hand down like
13 this" -- (indicating), and I've got all my fingers down
14 on the table -- "acting like he had a piece of paper as
15 he was talking, saying, 'There are -- there's some
16 damaging information that I have on you and the Highway
17 Patrol and I could release it if you don't do the things
18 I want you to do.'" And --

19 Q And you're making a motion, pushing your hand
20 forward on the table?

21 A Yes, sir, as if -- as if, as Commissioner
22 Rhoades described it, Mr. German had a piece of paper,
23 which I guess was an imaginary piece of paper he put
24 down on the table they were sitting at. Mr. German then
25 placed his hand -- the motion that Mr. Rhoades made was

1 that Mr. German placed his hand down on the imaginary
2 piece of paper, like he'd written a bunch of allegations
3 down and he was pretending to shove it across -- or make
4 the motion that he was shoving this piece of paper
5 across, toward Commissioner Rhoades.

6 And I said, "Well, where's that piece of
7 paper?" And he said, "Oh, it wasn't really a piece of
8 paper, he was just acting like he had a bunch of
9 information that he was shoving across the table toward
10 me."

11 I said, "So you didn't have anything written
12 out from Mr. German, talking about the type of
13 information that he knew, that he was willing to release
14 if you didn't meet his -- his request?" And he said,
15 "No." And I said, "Well, then, what, specifically, did
16 he say?" And he said, "Well, you know, he -- he -- he
17 wasn't happy about some things and -- and -- and there
18 was a recent promotion that he didn't get." And I said,
19 "Well, okay."

20 "And -- and there were some things he wanted
21 changed in the Highway Patrol." I said, "But what,
22 specifically, is he asking you to do?"

23 And -- and, again, it didn't really get
24 specific. "Well, you know, he -- he wasn't happy about
25 a recent promotion and -- and there were some changes in

1 command that he said he wanted and -- and wanted some
2 other changes in the Highway Patrol."

3 And I said, "Okay. Why was Troy German asking
4 you to make these changes? I mean, what had happened
5 here?"

6 And he said, "Well, you know, Troy -- Troy is
7 just -- seems to be disgruntled and -- and he's just --
8 he -- we just don't have a good relationship and -- and
9 he's unhappy about some things."

10 I said, "Listen, when I was a police officer,
11 if I saw things in my agency that I felt like needed to
12 be improved, I'm not going to have a meeting like what
13 you're describing, but I may go to my supervisor and
14 say, 'Hey' -- you know, first of all, if I didn't feel
15 like I was promoted and it wasn't fair, I -- I may talk
16 to you about that. If there are improvements that can
17 be made regarding policies and procedures that the
18 Police Department is involved in that I don't like, I
19 may talk to you about that -- what out of bounds was it
20 that you felt like Troy German was -- was talking to you
21 about?"

22 "Well, just -- the things that he wanted just
23 really weren't appropriate and more -- it seemed more
24 like he had some kind of a general interest in either
25 being promoted or getting the homeland security position

1 that he was up for -- he -- you know, that's -- that's
2 what he really seemed interested in at that point."

3 Q And Rusty Rhoades said that?

4 A Rusty Rhoades said that.

5 And I said, "I wasn't even aware that
6 Mr. German was interested in the homeland security spot,
7 the Oklahoma Homeland Security spot." He said, "Yeah,
8 he's been really jockeying for that," and whatever else.
9 I said, "Oh, okay, I hadn't even heard that."

10 And I said, "So, then, what is the information
11 that Mr. German has that he is threatening to release
12 if, in fact, you don't do what he wants you to do?"

13 And --

14 Q And what did he say?

15 A He said, "Well, he doesn't have anything on
16 me." And I said, "Okay, then, what could he possibly
17 be -- be talking about? I mean, is he going to
18 fabricate information, was he saying, 'Hey, you know, I
19 know this about you, there are rumors about you'?" And
20 he said, "No, no, no, he didn't do any of that. He just
21 said he had damaging information on me," and, again,
22 acted like he was shoving that imaginary piece of paper
23 across the table, that had all this information, toward
24 Commissioner Rhoades.

25 And I said, "So -- so Troy German calls you,

1 wants to have a meeting with you, you don't take anyone
2 with you, you don't record the meeting, he makes these
3 general requests of you about promo- -- a promotion
4 that's just happened that he's not happy about and --
5 and there's some things that need to be changed in the
6 Highway Patrol and a change in command, or whatever,
7 like that, and -- and that's -- that's as specific,
8 basically, as he got with you at that point, and then
9 when -- when I ask you what it was that he's threatening
10 to release, you say he's got nothing on you, what could
11 he have?" I said, "This isn't blackmail at all."

12 And that's when Ms. Simpson piped up and said,
13 "Listen, I've looked at the elements of this crime, this
14 is blackmail." And she indicated to me that she had
15 been an Assistant DA somewhere in the state. That was
16 fine. I'm the DA of Oklahoma County and I make these
17 decisions.

18 And I just told Rusty, I said, "Hey, that's
19 not a blackmail, man." I said, "So" -- and he said,
20 "Well, there was another meeting," and just kind of
21 volunteered that. And I said, "So after this meeting
22 where Troy German has allegedly blackmailed you, you
23 have another meeting with him?"

24 Q Did Rusty Rhoades tell you he had a firm and
25 definite conviction that he was being blackmailed in the

1 each of their responses, if any?

2 A And -- and, again, I think Ms. Simpson just
3 continued to tell me that she felt like that -- that
4 what Commissioner Rhoades had described to me did meet
5 the elements of blackmail and I -- I told her I felt
6 like she was wrong, that this was not blackmail, I was
7 greatly suspicious of the information that I had been
8 told by Commissioner Rhoades and that I felt like there
9 was something he was holding back on, if -- if not, flat
10 out, lying to me.

11 Q Did Commissioner Rhoades ask you to file
12 blackmail charges against Troy German?

13 A He did.

14 Q Did Chief Harrell ask you to file blackmail
15 charges against Troy German?

16 A I'm sorry, I don't recall whether he asked --
17 specifically asked me for that or not.

18 Q Did Megan Simpson specifically ask you for
19 that?

20 A She said she felt like -- she felt like the
21 elements had been satisfied and that -- that I -- that I
22 had every right in the world to go ahead and proceed and
23 file blackmail charges against Mr. German.

24 Q Was it your perception, as the elected DA of
25 Oklahoma County, that both Chief Harrell and Megan

1 Simpson were there supporting Rusty Rhoades' request to
2 get you to charge Troy German with blackmail?

3 A Yes, sir, that was my perception.

4 Q Did you ask Rusty Rhoades if he had conducted
5 any investigation into this blackmail?

6 A So after we got to the end of this very
7 unusual and what ultimately ended up being slightly
8 contentious meeting, I said, "Listen, Commissioner" --
9 well -- so let me back up one step.

10 Commissioner Rhoades said this, he said,
11 "Well, I knew when I called you that you would shoot
12 straight with me and, no matter what you felt about what
13 I was telling you, you'd tell me the truth."

14 And I said, "Rusty, that's just the way I am,
15 man." I said, "I have nothing against you or Chief
16 Harrell," I said, you know, "and -- and -- and -- or
17 anyone else here, but -- but this is not a blackmail."
18 And I said, "The worst thing in the world that could
19 happen to you and the Highway Patrol is for me to just
20 go ahead and file this charge."

21 And he said, "Well, what do you mean by that?"

22 And I said, "Because, No. 1, it's not
23 justified, but let's just say I go ahead and do it,
24 anyway. Everything that Troy German has alleged that
25 you've done will be proven true and it will de- -- it

1 will take you down, it's going to make the Highway
2 Patrol look horrible." I said, "I don't even know why
3 you would want me to file blackmail charges against Troy
4 German. It would be the worst thing that you could
5 imagine happening. I mean, it's going to be a fire
6 storm, is what's going to happen, and it's going to make
7 you look bad, it's going to make Chief Harrell look bad,
8 it's going to make the Highway Patrol look bad."

9 Q You said this to him?

10 A I did say that to him.

11 Q And what did he say in response?

12 A He said, "Well, I disagree. I don't think it
13 would be a problem and I think that blackmail has
14 occurred here and I think, ultimately, that's what we
15 need to do."

16 And I said, "Okay." I said, "Since you seem
17 to feel so strongly about this matter and that Troy
18 German has blackmailed you, where's the probable cause
19 affidavit or where's my investigation? Let me read
20 through it, let me see what we've got, whatever."

21 And he said, "I don't have that."

22 Q What is the probable cause affidavit? What
23 does that mean?

24 A Sure. When a police officer brings charges,
25 whether it's a misdemeanor or a felony, they're required

1 to set out, with -- with specific facts, the -- the
2 elements of the crime: On a certain, certain date, this
3 person committed this act, and they did these certain
4 things, which satisfies the elements of this crime,
5 swear or affirm, law enforcement officer, and -- and
6 that's what a judge looks like to ultimate- -- looks at
7 to ultimately approve the probable cause affidavit that
8 allows a warrant to issue.

9 Q And that document is signed under oath?

10 A It's notarized.

11 Q And so the law enforcement officer is swearing
12 that it is true and correct to the best of his or her
13 knowledge?

14 A Yes, that's correct.

15 Q Okay.

16 A And so I asked Commissioner Rhoades -- I said,
17 "Then you give me your probable cause affidavit and you
18 give me your investigation." And he said, "I -- I don't
19 have that." And I said, "Okay, then -- then tell me
20 about the investigation." And he said, "It hadn't been
21 investigated." I said, "Who did you report this to?"
22 And he said, "Well, no one."

23 And I -- obviously, Ms. Simpson knew about it
24 and Chief Harrell, but he didn't indicate anyone else
25 was aware of -- of the allegations or that they were

1 going to come to me and ask that charges be filed
2 against Troy German.

3 And I said, "Okay, you feel so strongly about
4 this," I said, "have it investigated. You -- you make a
5 report, you give your statement to your investigators,
6 they follow up, they pursue, they get video from
7 wherever it was that you guys were meeting at, whatever
8 they can get to corroborate the things that you have
9 alleged here against Troy German, and you have them
10 bring it to me and I -- you have -- you have my pledge
11 on this: If, in fact, after reviewing that
12 investigation, if I believe that Troy German blackmailed
13 you, I will file charges on him."

14 And he said, "Well, who are we going to get to
15 do that?" And I said, "I don't know." And he said,
16 "Well, we can't let the Highway -- we can't let the OSBI
17 do it because of Ricky Adams."

18 Q Who is Ricky Adams?

19 A Ricky Adams is the former Chief of the Highway
20 Patrol that had been fairly unceremoniously forced out
21 and -- and was then director of -- and still is director
22 of the Oklahoma State Bureau of Investigation.

23 Q Is it common, when there may be a conflict or
24 an investigation involving a member of a law enforcement
25 agency, for the OSBI to conduct the investigation?

1 hearsay, that would not be competent evidence to rely
2 on, solely, to convict someone.

3 Q Before the preliminary hearing took place or
4 before it was scheduled to take place, did you have a
5 meeting with Assistant Attorney General Dane Towery?

6 A I did, and I believe that -- that was preceded
7 by a call to General Hunter, and I said, "Mike, what
8 happened here?"

9 Q So let me -- let me stop you and back up.

10 A Sure.

11 Q When did you contact General Hunter?

12 A It was before I spoke to Dane Towery, which
13 would have been -- I think I spoke to -- to AG Towery a
14 couple weeks before the preliminary hearing was set.
15 And -- and so it would have been a little bit prior to
16 that. And I -- I called -- and, I'm sorry, I don't have
17 a date.

18 Q Okay.

19 A But I called General Hunter and I said, "Mike,
20 this is not right." I said, "Something's happened
21 here." I said, "I don't know what." I said, "But, you
22 know, I asked Commissioner Rhoades to have Troop Z
23 investigate this deal and bring it to me and he didn't.
24 And he shows up on your doorstep. I'm sure you didn't
25 know that he had come talked to me and I said this isn't

1 blackmail, but he shows up on your doorstep and one of
2 your Assistant Attorney Generals presented it to the
3 grand jury and -- and -- and there's an indictment now
4 on -- on Troy German."

5 I said, "This is wrong." I said, "I don't
6 know what was presented, but -- but -- but this is
7 wrong. And I'm going to" -- I said, "I'm going to be a
8 witness for the defendant in this case and, you know, I
9 really do -- would like to talk to -- to Dane,
10 Mr. Towery, your Assistant Attorney General, about this
11 matter and" --

12 Q So Dane Towery had not reached out to you, to
13 talk to you about your conversation with Rusty Rhoades?

14 A No, because I don't know if he knew about it.

15 Q Okay. All right. And so what did Attorney
16 General Hunter say?

17 A Said absolutely, he'd talk to him.

18 Q Okay. Did he have anything else to say during
19 this phone call?

20 A No, not that I recall.

21 Q Okay.

22 A Not that I recall.

23 Q So then you met with -- or you spoke to Dane
24 Towery. Was that in person or over the telephone?

25 A I -- I -- and I don't remember -- excuse me --

1 I think I called and left a message for -- well, let me
2 back up. I'm not sure if -- if, based on my
3 conversation with Mike Hunter, that Dane Towery called
4 me, or if I initiated the phone call. But, ultimately,
5 I did meet with Dane Towery in the Attorney General's
6 Office, actually in Mike Hunter's conference room, just
7 me and him.

8 Q Just you two?

9 A Yeah.

10 Q And what did you tell him during that meeting?

11 A I laid out everything that I've related to you
12 today, to -- to Dane Towery, and I said -- and, you
13 know, I -- I've got to be careful, in my position, to
14 not attempt to influence lawyers, generally, and -- but
15 especially, I -- you know, lawyers in other agencies. I
16 mean, I don't -- I don't want to do that.

17 And so I didn't want him to think that the DA
18 of Oklahoma County is coming in and going to pound the
19 table and demand he do this or demand he do that and
20 call him stupid or whatever, because I wasn't going to
21 do that. That was not my intent. But he needed to know
22 the story, because I -- I -- I felt certain that he
23 didn't know everything that had happened on the
24 December 11th.

25 Q And when you left that meeting, did you still

1 have that certainty, did you believe that he didn't know
2 what you relayed?

3 A Yes, he did not -- he -- he indicated to me --
4 he said, "Well, I -- this is the first I've heard of any
5 of this. I didn't know about that."

6 And I said -- I said, "Dane" -- it's
7 Mr. Towery, but I said -- I said, "You've got a direct
8 witness to the alleged crime, the blackmail, who's the
9 victim, who's a law enforcement officer, why didn't he
10 testify? You've got to put him on."

11 Q And what was Dane Towery's response to that?

12 A I -- I -- I believe -- and, again, he was not
13 the supervisor of that unit, okay? I believe that what
14 he indicated to me was -- is that there was a discussion
15 among the team and that somewhere -- someone in his
16 chain of supervision, maybe even just the -- the leader
17 of the multi-county grand jury team, had said, "No,
18 we're just going to call Troop Z and they're going to
19 lay out the investigation."

20 Q All right. When you left that meeting, did
21 you know whether or not the charges would be dismissed
22 or if the AG's Office would go forward with the
23 preliminary hearing?

24 A I have a great deal of confidence in Mike
25 Hunter. I have a great deal of confidence in -- in --

1 A No. No, he didn't.

2 Q Did he challenge any of the information that
3 you gave to him?

4 A No, and, you know, listen, this is a -- a
5 private meeting between lawyers, but it's important here
6 because the truth is very important, and so even though
7 I respect a private conversation with another lawyer,
8 I'll tell you, I felt like he was very surprised to
9 learn about the December 11th meeting, very surprised
10 to -- to know what I was told and that I had asked that
11 Troop Z come back to me and, in fact, they had not.

12 Q Did you tell Dane Towery that you thought Troy
13 German was innocent?

14 A I told Dane Towery I felt like Troy German did
15 not commit the act of blackmail.

16 Q Did you, ultimately, testify at a preliminary
17 hearing?

18 A No, I did not.

19 Q Did you appear for your testimony at a
20 preliminary hearing?

21 A Without being called, I -- I went to the
22 courtroom that morning to determine if, in fact, I would
23 be called. And I'll tell you why. I -- and, again,
24 Michael Johnson and -- and Gary James were having
25 multiple conversations with me over the weeks leading up

1 that -- that Mr. German was treated fairly by the -- the
2 justice system in this state.

3 Q You weren't trying to help out Gary James; I
4 mean, you -- you've known these people professionally
5 for years and worked opposite them on many cases,
6 correct?

7 A Yeah, and I -- yeah, I -- I think both of
8 those men would tell you that -- that if I feel
9 righteous about a case, I'm not going to do anything to
10 help them.

11 Q And so when you came down there to ensure that
12 Mr. German was treated fairly, what actually happened?

13 A I walked into -- I believe it was -- it's that
14 middle courtroom on the fifth floor of the Oklahoma
15 County Courthouse. I believe it was Judge Savage's
16 courtroom, even -- even then, Kathryn Savage.

17 And I walked in and I saw Dane Towery and I
18 just -- I said, "Hey, you know, I'm -- I'm going to be
19 testifying for the defense."

20 He said -- and -- and I believe it was right
21 then, I mean, he just smiled and said, "We're kicking
22 it. He's -- he's retiring and we're kicking it."

23 Which, prosecutor shorthand, means we're
24 getting rid of this case, it's getting dismissed.

25 Q Okay. And so you, ultimately, didn't have to

1 had a conversation with Gary James about it in the
2 distant past. I don't recall any specific conversation
3 about -- about this case, with anyone. Except counsel.

4 Q I'm going to turn your attention to Exhibit, I
5 think, 3, the First Amended Complaint.

6 A Yes, sir.

7 Q If you'll turn to Page 17, Paragraph 107.

8 A Yes, sir.

9 Q And it says, "DA Prater stated that he
10 believed Rhoades was lying."

11 In that meeting, did you actually say that
12 you -- you believed Mr. Rhoades was lying?

13 A I don't know if I used that terminology, but
14 that, in fact, was my impression of the information that
15 he was giving me and I -- I told him I didn't think that
16 he was being honest with me and wasn't telling me the
17 truth, that there was something more to this deal.

18 Q Besides Mr. Harrell, Mr. Rhoades and -- and
19 Ms. Simpson and yourself, was there anyone else in that
20 meeting?

21 A I believe my first assistant, Jimmy Harmon,
22 was there.

23 Q Did anyone take notes --

24 A No.

25 Q -- during that meeting?